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1-37-148.1  
March 20, 1937.

Mr. Latimer

Mr. Schreiber

*ne*  
Creditability of service to the Oklahoma Railway Company under  
the Railroad Retirement Act of 1935 from December 26, 1922  
to date. *Oct. 26.*

The Oklahoma Railway Company was incorporated on June 14, 1904, in Oklahoma under the name of the Oklahoma City Railway Company. Its present name was adopted in 1907 (exact date not shown). Under the articles of incorporation the Oklahoma Railway Company (hereinafter referred to as the company) had the right to operate by steam or electric power.

The company's road is of standard gauge and is constructed of rails weighing from 70 to 100 pounds per yard, and 100 pound rails being used only in paved streets. In 1912 the company owned 103.107 miles of track. From that time its owned trackage was slightly increased and decreased from time to time until 1935 when it owned 108.48 miles of track. Its lines extend through Oklahoma City 66.67 miles; from Oklahoma City to El Reno 31.35 miles; from Oklahoma City to Guthrie 30.20 miles; from Oklahoma City to Norman 15.99 miles. All but 5 miles of its street car tracks are in the city streets or on paved strips in the center of the streets. Its switching lines are located entirely on privately owned right of way except for street crossings.

In 1912 the company had 386 employees, but this number was increased and decreased from time to time until it had 554 employees in 1934.

The company was operating independently until 1915, when control of it was acquired through purchase of the majority of the capital stock by the South West Securities Company. In 1927 the Railway Investment Company acquired control of the company through purchase of its stock and this control continued to date.

In the Official Guide of August 1917 the company advertised connections in Oklahoma City with the -

Atchison, Topeka & Santa Fe Railway,  
Chicago, Rock Island & Pacific Railway,  
Fort Smith & Western Railroad,  
Missouri, Kansas & Texas Railway, and the  
St. Louis Railway.

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At Guthrie the company listed connection with the -

Atchison, Topeka & Santa Fe Railway,  
Chicago, Rock Island & Pacific Railway, and the  
Missouri, Kansas & Texas Railway.

The Guide for February 1921 shows that the company had connections with all steam roads at Guthrie, Oklahoma City and El Reno.

The equipment register for 1926 shows that the company had connections at Guthrie with the -

Atchison, Topeka and Santa Fe Railway,  
Chicago, Rock Island and Pacific Railway, and the  
Fort Smith and Western Railroad, and

at Oklahoma City with the -

Missouri, Kansas and Texas Railway,  
Oklahoma City-Ada-Atoka Railway,  
St. Louis-San Francisco Railway,  
Atchison, Topeka and Santa Fe Railway,  
Chicago, Rock Island and Pacific Railway, and the  
Fort Smith and Western Railway.

These connections were the same in 1929, 1934, and 1935. Additional connections were made with the Chicago, Rock Island Pacific at El Reno and Yukon and the connection with the Chicago, Rock Island and Pacific Railway at Guthrie was discontinued.

From 1912 to 1917, the company carried express for the Wells Fargo Express Company and for that reason alone subjected itself to the jurisdiction of the Interstate Commerce Commission by reason of Conference Ruling No. 197. In 1918 the company discontinued the express service and the Interstate Commerce Commission released it from filing annual reports by reason thereof. The company began filing annual reports in 1923 on the basis of its interstate business. It filed its first freight power of attorney October 26, 1922; its first passenger power of attorney November 12, 1923; its first freight concurrence November 23, 1922; its first passenger concurrence November 24, 1922; its first freight tariff on February 15, 1923 and its first passenger tariff on March 1, 1924.

The Company was not under Federal control during the period of such control, but has been filing reports under the Locomotive Inspection Act since June 19, 1926.

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The company's freight and passenger revenues from 1923 to 1935, inclusive, are shown to be as follows:

<u>Year</u>	<u>Passenger</u>	<u>Freight</u>
1923	\$1,553,271.14	\$ 52,788.39
1924	1,326,787.50	143,086.57
1925	1,293,009.77	189,202.93
1926	1,380,332.89	250,272.19
1927	1,465,633.39	295,053.39
1928	1,537,587.47	367,352.48
1929	1,631,527.53	434,759.33
1930	1,841,008.33	570,468.01
1931	1,381,617.80	357,312.89
1932	934,876.42	210,799.84
1933	717,503.72	196,479.14
1934	840,399.10	217,512.71
1935	866,645.85	271,639.01

The company had 3 electric locomotives from 1923 to 1928; 6 in 1929; and 7 from 1930 to date. It had 125 electric passenger cars in 1923, but this number was gradually decreased until it had only 96 in 1935. It had 32 non-electric passenger cars in 1923, but this number was gradually decreased until it had only 2 of them in 1935. It had 3 electric freight cars in 1923; 4 from 1924 to 1926; 5 from 1927 to 1932, and 4 from 1933 to date. It had 22 non-electric freight cars in 1923; 24 from 1924 to 1927; 17 in 1928; 19 from 1929 to date.

In 1925 the company acquired 7 buses, and this number was gradually increased so that it had 61 buses in 1935.

The Interstate Commerce Commission assumed jurisdiction of the company in its application under paragraph 2 of Section 3 of the Interstate Commerce Act for permission to acquire control by lease of the line of railroad of the Oklahoma City Junction Railway Company and also to acquire control of the Oklahoma Belt Railroad Company by purchase of capital stock and to lease the railroad of that company. (150 I.C.C. 721, 1929)

In Oklahoma Railway Company, Railway Labor Act pocket No. 15, 218 I.C.C. 123, the Interstate Commerce Commission held the company to be subject to the Railway Labor Act (this Act contains an exemption proviso with respect to electric railroads similar to that contained in the Railroad Retirement Act) on the ground that the company was not a street, suburban or interurban railway. In discussing the company the Interstate Commerce Commission stated in part:



\*\*\*\* There are 15 industries on the tracks of the Junction, including the stockyards and two large packing plants, and there are 10 industries on the Belt's tracks. Except for the change in motive power, the Oklahoma Railway operates the Belt and the Junction in substantially the same manner as they were formerly operated by the Missouri-Kansas-Texas Railroad Company. \*\*\*\*

Though the company's report for 1923 throws no light upon its activities in 1922, it is a fact that on October 26, 1922, the company already had filed a freight power of attorney. On November 12, 1922, it filed a freight concurrence and on December 4, 1922, it filed a passenger concurrence. During that time and thereafter the company had advertised connections with steam railroads; it filed annual reports from 1923 to date; it had a freight revenue in 1923 of nearly \$53,000 and its yearly freight revenue grew to \$570,000 by 1930, though it decreased from then on to \$271,000 in 1935; it complied with the Locomotive Inspection Act; it submitted to the jurisdiction of the Interstate Commerce Commission in 1929; and was declared to be more than a street railway company by the Interstate Commerce Commission in the Railway Labor Act case.

I am therefore of the opinion that the Oklahoma Railway Company was more than a street, interurban or suburban electric railway from October 26, 1922 to date; that the exemption proviso in Section 1(a) of the Railroad Retirement Act does not apply to it; that it is a carrier as defined in the Act and that service rendered to it is creditable under the Act from October 26, 1922, to date.

DBS:kj  
MEM